

Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105
Tel: 415.442.1000
Fax: 415.442.1001
www.morganlewis.com

Morg
C O U N S E L O R S A T L A W

Rochelle D. Alpert
415.442.1326
ralpert@morganlewis.com

May 30, 2007

BOX TTAB — FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: U.S. Trademark application Serial No.: 78/749,922
Mark: **SNAP RESTORE**
Filed: November 8, 2005
Published: February 13, 2007

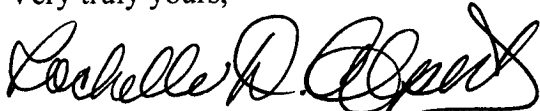
U.S. Trademark application Serial No.: 78/894,811
Mark: **ACRONIS SNAP RESTORE**
Filed: May 27, 2006
Published: January 30, 2007
Our Reference: 059055.9017

Dear Sir:

Enclosed for filing is a Combined Notice of Opposition in connection with the above-referenced applications. Also enclosed are Exhibits A-B, and our receipt verification postcard.

The Assistant Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment, to **Deposit Account No. 13-4520**. A duplicate copy of this letter is enclosed for this purpose.

Very truly yours,



Rochelle D. Alpert

Enclosures

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 78/749,922
Filed November 8, 2005
For the mark SNAP RESTORE
Published in the OFFICIAL GAZETTE on February 13, 2007

In the matter of application Serial No. 78/894,811
Filed May 27, 2006
For the mark ACRONIS SNAP RESTORE
Published in the OFFICIAL GAZETTE on January 30, 2007

NETWORK APPLIANCE, INC., a Delaware
corporation,

Opposer,

v.

ACRONIS, INC., a corporation of the British
Virgin Islands,

Applicant.

Opposition No.:

06/05/2007 GTHOMAS2 00000026 134520 78749922
01 FC:6402 600.00 DA

BOX TTAB — FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

COMBINED NOTICE OF OPPOSITION

Network Appliance, Inc., a Delaware corporation, having its principal place of business at 495 East Java Drive, Sunnyvale, CA 94089 (“NetApp” or “Opposer”), believes that it will be damaged by the registration of the SNAP RESTORE mark shown in Serial No. 78/749,922 and

the ACRONIS SNAP RESTORE mark shown in Serial No. 78/894,811 and, hereby opposes same.

As grounds for the Combined Opposition, Opposer NetApp alleges as follows:

1. NetApp is a publicly traded company that is widely recognized as the leader in enterprise storage and the delivery of data and content on demand. NetApp has long developed, marketed and offered enterprise data management products and services, including, among other products and services, hardware and software for storing, securing and managing data.

2. NetApp owns and uses, in interstate and foreign commerce, marks based on, and including, the word SNAP for enterprise data management related products and services, particularly software for data storage and network management. NetApp has owned and used these marks in interstate and foreign commerce, since well prior to the filing dates of the applications at issue in this proceeding. In particular, NetApp used the SNAPRESTORE® mark in interstate commerce at least as early as April 30, 1999. Additionally, for example, NetApp has used other SNAP based marks in interstate commerce such as the SNAPMIRROR® mark since at least as early as April 1999, the SNAPMANAGER® manager since at least as early as February 7, 2000, the SNAPLOCK® mark since at least as early as June 16, 2003, and the SNAPVAULT® mark since at least as early as March 2002.

3. NetApp owns valid, subsisting, uncanceled and unrevoked federal trademark registrations for marks that are comprised of, or include, the word SNAP for its products. These registrations include the mark SNAPRESTORE®, Registration No. 2,485,892, for “computer software for recovery of data stored in electronic data file systems, and instruction and user manuals provided in connection therewith,” in International Class 9, registered on September 4, 2001. A true and correct copy of this registration is attached as Exhibit A.

4. NetApp also owns valid, subsisting uncanceled and unrevoked federal registrations for the following marks:

(a) SNAPMIRROR[®], Registration No. 2,488,676, for “computer software for replicating and updating of electronic data to separate data storage systems across computer networks, and instruction and user manuals provided in connection therewith,” in International Class 9, registered on September 11, 2001;

(b) SNAPMANAGER[®], Registration No. 2,480,545, for “computer software for backing up and recovery of data stored in electronic data file systems and for the management of backing up and recovery of data stored in electronic data file systems, and instruction and user manuals sold as a unit therewith,” in International Class 9, registered on August 21, 2001;

(c) SNAPVAULT[®], Registration No. 2,903,585, for “computer hardware and software for managing the protection, backup, replication, and restoration of data, and instruction and user manuals sold therewith,” in International Class 9, registered on November 16, 2004;

(d) SNAPMOVER[®], Registration No. 2,855,337, for “computer hardware and software for storing, securing, managing, controlling, monitoring and optimizing the accessibility, delivery, backup, restoration, replication, and migration of computer data; software for managing and monitoring computer disc drives and other computer storage devices using a computer network,” in International Class 9, registered on June 15, 2004;

(e) SNAPLOCK[®], Registration No. 2,962,614, for “computer software for storing, securing and managing data on magnetic disk storage and for optimizing the accessibility of the data, and the instruction and user manuals sold therewith,” in International Class 9, registered on June 14, 2005;

(f) SNAPDRIVE®, Serial No. 76/341,160, (Allowed), for “computer operating system software; computer software for storing, securing, managing, monitoring and optimizing the accessibility, delivery, backup, restoration, migration and replication of computer data on filers and computer networks,” in International Class 9, with use commencing in interstate commerce at least as early as September, 2002; and

(g) SNAPVALIDATOR®, Serial No. 78/361,868, (Allowed), for “computer software for use in electronic data storage systems and computer networks for managing, searching and securing data,” in International Class 9.

True and correct copies of NetApp referenced registrations, and applications and allowances from the TARR database are attached hereto as Exhibit B.

5. By way of the opposed applications, Acronis, Inc. (“Applicant” or “Acronis”), seeks to register the confusingly similar designations SNAP RESTORE, having disclaimed the word “restore”, Serial No. 78/749,922, in International Class 9 for “computer software, available in downloadable form, for servers, laptop computers, desktop computers, palmtop computers, mobile computers, personal digital assistants and personal computers, including networked machines controlled from a central location, for booting the operating system from an image on a crashed or failed computer, while the remainder of the restoration can continue in the background; computer software, available on CD-ROM, for servers, laptop computers, desktop computers, palmtop computers, mobile computers, personal digital assistants and personal computers, including networked machines controlled from a central location for booting the operating system from an image on a crashed or failed computer, while the remainder of the restoration can continue in the background;” and ACRONIS SNAP RESTORE, having disclaimed the word “restore,” Serial No. 78/894,811, in International Class 9 for “downloadable

computer software and software recorded on CD-ROM, for servers, laptop computers, desktop computers, palmtop computers, mobile computers, personal digital assistants and personal computers, namely, networked machines controlled from a central location, for booting the operating system from an image on a crashed or failed computer, while the remainder of the restoration can continue in the background.” The opposed application for SNAP RESTORE was filed on November 8, 2005, and the opposed application for ACRONIS SNAP RESTORE on May 27, 2006, well after NetApp obtained United States trademark registrations for its SNAPRESTORE® and other SNAP based marks, including but not limited to its SNAPMIRROR®, SNAPLOCK® and SNAPMANAGER® marks, and well after NetApp first commenced use of its SNAPRESTORE®, SNAPMIRROR®, SNAPDRIVE®, SNAPMANAGER®, SNAPLOCK®, SNAPVALIDATOR® and SNAPVAULT® marks.

6. Applicant’s SNAP RESTORE designation is identical to NetApp’s federally registered and in use SNAPRESTORE® mark in sight, sound and meaning, and its ACRONIS SNAP RESTORE designation is virtually identical to NetApp’s federally registered and in use SNAPRESTORE® mark in sight, sound and meaning. Furthermore, Applicant’s SNAP RESTORE and ACRONIS SNAP RESTORE designations are confusingly similar in sight, sound, meaning and overall commercial impression to NetApp’s federally registered and in use SNAPMIRROR®, SNAPRESTORE®, SNAPMANAGER®, SNAPVAULT®, SNAPMOVER® and SNAPLOCK® marks. These confusing similarities are likely to lead to confusion with NetApp and its products.

7. On information and belief, NetApp alleges that the goods for which Applicant seeks to register the opposed designations are competitive with, and/or directly related to, and/or complementary to, NetApp’s goods. Further, on information and belief, Applicant’s products for

which it claims the right to use the SNAP RESTORE and ACRONIS SNAP RESTORE designations, with the word "restore" disclaimed, include products which are likely to be offered through the same or overlapping marketing and trade channels, and to the same or overlapping customers, to whom NetApp markets, promotes and sells its enterprise data and network management and related products under its SNAP based marks. Indeed, Applicant itself states on its own web site that it is a "world leader in providing advanced, scalable storage management..." Further, Applicant claims on its web site that it sells to small, mid-sized and Fortune500 businesses.

8. Inasmuch as NetApps's SNAP marks and, specifically its SNAPRESTORE[®] mark are essentially identical in terms of sight, sound and/or meaning to the designations SNAP RESTORE and ACRONIS SNAP RESTORE and because the goods identified in the opposed applications, the apparent channels of trade and the prospective customer base for those goods at a minimum overlap with those of NetApp, Applicant's registration of the SNAP RESTORE and ACRONIS SNAP RESTORE designations, are likely to cause confusion, mistake and deception in the marketplace and damage NetApp. Therefore, Applicant is not entitled to registrations for either of its applications opposed here under the Lanham Act, 15 U.S.C. §1052(d).

WHEREFORE, NetApp prays that application Serial No. 78/749,922 for SNAP RESTORE and application Serial No. 78/894,811 for ACRONIS SNAP RESTORE be rejected, that no registrations be issued thereon to Applicant, and that this combined opposition be sustained in favor of NetApp.


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The Assistant Commissioner is hereby authorized to charge the \$600.00, and any other required fees to institute this Opposition, to Deposit Account No. 13-4520.

Dated: May 30, 2007

Respectfully submitted,

By: 
Rochelle D. Alpert
Attorney for Opposer
Network Appliance, Inc.

Rochelle D. Alpert
Sharon R. Smith
Morgan, Lewis & Bockius LLP
Spear Street Tower, One Market
San Francisco, CA 94105
Telephone: (415) 442-1326
Facsimile: (415) 442-1001
Email: ralpert@morganlewis.com

EXHIBIT A

TO COMBINED NOTICE OF OPPOSITION

NETWORK APPLIANCE, INC. v. ACRONIS, INC.
Serial No. 78/749,922 and Serial No. 78/894,811
Submitted by: Network Appliance, Inc. (Opposer)

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:21:27 ET

Serial Number: 75745667 Assignment Information

Registration Number: 2485892

Mark (words only): SNAPRESTORE

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-04-16

Filing Date: 1999-07-08

Transformed into a National Application: No

Registration Date: 2001-09-04

Register: Principal

Law Office Assigned: LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-04-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. NETWORK APPLIANCE, INC.

Address:

NETWORK APPLIANCE, INC.

495 EAST JAVA DRIVE
SUNNYVALE, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for recovery of data stored in electronic data file systems, and instruction and user manuals provided in connection therewith

Basis: 1(a)

First Use Date: 1998-11-00

First Use in Commerce Date: 1999-04-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-05-08 - TEAS Change Of Correspondence Received

2007-04-16 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-02-27 - Section 8 (6-year) and Section 15 Filed

2007-02-27 - TEAS Section 8 & 15 Received

2007-02-05 - Case File In TIGRS

2001-09-04 - Registered - Principal Register

2001-05-08 - Allowed for Registration - Principal Register (SOU accepted)

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75745667>

2001-05-07 - Assigned To Examiner

2001-05-02 - Statement of use processing complete

2001-04-20 - Amendment to Use filed

2000-10-30 - Extension 1 granted

2000-10-30 - Extension 1 filed

2000-05-02 - Notice of allowance - mailed

2000-02-08 - Published for opposition

2000-01-07 - Notice of publication

1999-12-02 - Approved for Pub - Principal Register (Initial exam)

1999-11-19 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

ROCHELLE D. ALPERT

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius, LLP

1 Market, Spear Street Tower

San Francisco CA 94105

Phone Number: (415) 442-1326

Fax Number: (415) 442-1001

EXHIBIT B

TO COMBINED NOTICE OF OPPOSITION

EXHIBIT B
Page 1 of 26

NETWORK APPLIANCE, INC. v. ACRONIS, INC.
Serial No. 78/749,922 and Serial No. 78/894,811
Submitted by: Network Appliance, Inc. (Opposer)

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:22:30 ET

Serial Number: 75748684 Assignment Information

Registration Number: 2488676

Mark (words only): SNAPMIRROR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-09-11

Filing Date: 1999-07-08

Transformed into a National Application: No

Registration Date: 2001-09-11

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-01-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75748684>

EXHIBIT B
Page 2 of 26

5/30/2007

Network Appliance, Inc.

495 East Java Drive

Sunnyvale, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for replicating and updating of electronic data to separate data storage systems across computer networks, and instruction and user manuals provided in connection therewith

Basis: 1(a)

First Use Date: 1999-03-31

First Use in Commerce Date: 1999-04-26

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-01-29 - Case File In TICRS

2001-09-11 - Registered - Principal Register

2001-05-09 - Allowed for Registration - Principal Register (SOU accepted)

2001-05-01 - Statement of use processing complete

2001-04-30 - Extension 2 granted

2001-03-29 - Amendment to Use filed

2001-03-29 - Extension 2 filed

2000-12-18 - Extension 1 granted

2000-10-04 - Extension 1 filed

2000-04-04 - Notice of allowance - mailed

2000-01-11 - Published for opposition

1999-12-10 - Notice of publication

1999-11-04 - Approved for Pub - Principal Register (Initial exam)

1999-10-29 - Assigned To Examiner

1999-10-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Adam C. Striegel

Correspondent

ADAM C. STRIEGEL

BROBECK PHLEGER & HARRISON LLP

SPEAR STREET TOWER

ONE MARKET

SAN FRANCISCO, CALIFORNIA 94105

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:23:10 ET

Serial Number: 75686959 Assignment Information

Registration Number: 2480545

Mark (words only): SNAPMANAGER

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-08-21

Filing Date: 1999-04-20

Transformed into a National Application: No

Registration Date: 2001-08-21

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-02-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.
2770 San Thomas Expressway
Santa Clara, CA 95051
United States

Legal Entity Type: Corporation
State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for backing up and recovery of data stored in electronic data file systems and for the management of backing up and recovery of data stored in electronic data file systems, and instruction and user manuals sold as a unit therewith

Basis: 1(a)

First Use Date: 1999-12-31

First Use in Commerce Date: 2000-02-07

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-02-07 - Case File In TICRS

2001-08-21 - Registered - Principal Register

2001-04-18 - Allowed for Registration - Principal Register (SOU accepted)

2001-04-09 - Statement of use processing complete

2001-03-06 - Amendment to Use filed

2000-09-07 - Extension 1 granted

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75686959>

EXHIBIT B
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5/30/2007

2000-09-07 - Extension 1 filed

2000-03-07 - Notice of allowance - mailed

1999-12-14 - Published for opposition

1999-11-12 - Notice of publication

1999-09-21 - Approved for Pub - Principal Register (Initial exam)

1999-09-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Adam C. Striegel

Correspondent

ADAM C STRIEGEL

BROBECK PHLEGER & HARRISON LLP

SPEAR STREET TOWER

1 MARKET PLZ

SAN FRANCISCO CA 94105-1420

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:23:38 ET

Serial Number: 76193463 Assignment Information

Registration Number: 2903585

Mark (words only): SNAPVAULT

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-11-16

Filing Date: 2001-01-09

Transformed into a National Application: No

Registration Date: 2004-11-16

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2004-10-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. NETWORK APPLIANCE, INC.

Address:

NETWORK APPLIANCE INC.
495 EAST JAVA DRIVE
SUNNYVALE, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer hardware and software for managing the protection, backup, replication, and restoration of data, and instruction and user manuals sold therewith

Basis: 1(a)

First Use Date: 2002-03-00

First Use in Commerce Date: 2002-03-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-11-16 - Registered - Principal Register

2004-09-20 - Law Office Registration Review Completed

2004-09-20 - Assigned To LIE

2004-09-16 - Allowed for Registration - Principal Register (SOU accepted)

2004-09-16 - Assigned To Examiner

2004-09-14 - Statement of use processing complete

EXHIBIT B
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2004-06-16 - Amendment Use filed

2004-06-16 - TEAS Statement of Use Received

2004-06-02 - Extension 5 granted

2004-05-20 - Extension 5 filed

2004-05-28 - Case File In TIGRS

2004-05-20 - TEAS Extension Received

2003-11-17 - Extension 4 granted

2003-10-31 - Extension 4 filed

2003-06-15 - Extension 3 granted

2003-05-15 - Extension 3 filed

2003-10-31 - TEAS Extension Received

2003-08-25 - PAPER RECEIVED

2003-05-15 - TEAS Extension Received

2003-05-07 - TEAS Change Of Correspondence Received

2002-12-04 - Extension 2 granted

2002-10-21 - Extension 2 filed

2002-10-25 - PAPER RECEIVED

2002-03-12 - Extension 1 granted

2002-03-01 - Extension 1 filed

2001-11-20 - Notice of allowance - mailed

EXHIBIT B
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2001-08-28 - Published for opposition

2001-08-08 - Notice of publication

2001-04-26 - Approved for Pub - Principal Register (Initial exam)

2001-04-24 - Assigned To Examiner

2001-04-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

One Market, Spear Street Tower

San Francisco CA 94105

Phone Number: 415-442-0900

Fax Number: 415-442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:23:59 ET

Serial Number: 78235758 Assignment Information

Registration Number: 2855337

Mark (words only): SNAPMOVER

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-06-15

Filing Date: 2003-04-09

Transformed into a National Application: No

Registration Date: 2004-06-15

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-07-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=78235758>

EXHIBIT B
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5/30/2007

Network Appliance, Inc.
495 East Java Drive
Sunnyvale, CA 94089
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer hardware and software for storing, securing, managing, controlling, monitoring and optimizing the accessibility, delivery, backup, restoration, replication, and migration of computer data; software for managing and monitoring computer disc drives and other computer storage devices using a computer network

Basis: 1(a)

First Use Date: 2002-12-00

First Use in Commerce Date: 2004-01-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-06-15 - Registered - Principal Register

2004-04-05 - Allowed for Registration - Principal Register (SOU accepted)

2004-04-02 - Assigned To Examiner

2004-04-01 - Statement of use processing complete

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=78235758>

2004-03-25 - Amendment to Use filed

2004-03-25 - TEAS Statement of Use Received

2004-02-24 - Notice of allowance - mailed

2003-12-02 - Published for opposition

2003-11-12 - Notice of publication

2003-09-23 - Approved for Pub - Principal Register (Initial exam)

2003-09-22 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

One Market, Spear Street Tower

San Francisco CA USA 94105

Phone Number: (415) 442-1326

Fax Number: (415) 442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:24:17 ET

Serial Number: 78224801 Assignment Information

Registration Number: 2962614

Mark (words only): SNAPLOCK

Standard Character claim: No

Current Status: Registered.

Date of Status: 2005-06-14

Filing Date: 2003-03-12

Transformed into a National Application: No

Registration Date: 2005-06-14

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-05-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.

495 East Java Drive

Sunnyvale, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for storing, securing and managing data on magnetic disk storage and for optimizing the accessibility of the data and the instruction and user manuals sold therewith

Basis: 1(a)

First Use Date: 2003-04-15

First Use in Commerce Date: 2003-06-16

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-06-14 - Registered - Principal Register

2005-04-11 - Law Office Registration Review Completed

2005-04-08 - Assigned To LIE

2005-04-04 - Allowed for Registration - Principal Register (SOU accepted)

EXHIBIT B
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2005-04-01 - Amendment from Applicant Entered

2005-03-15 - Communication received from applicant

2005-03-15 - PAPER RECEIVED

2004-09-16 - Non-final action e-mailed

2004-09-16 - SU - Non-Final Action - Written

2004-09-01 - Assigned To Examiner

2004-08-31 - Statement of use processing complete

2004-08-20 - Amendment to Use filed

2004-08-20 - TEAS Statement of Use Received

2004-07-07 - Extension 1 granted

2004-06-21 - Extension 1 filed

2004-06-21 - TEAS Extension Received

2004-01-13 - Notice of allowance - mailed

2003-10-21 - Published for opposition

2003-10-01 - Notice of publication

2003-08-26 - Approved for Pub - Principal Register (Initial exam)

2003-08-26 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=78224801>

EXHIBIT B
Page 17 of 26

5/30/2007

Rochelle D. Alpert
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco CA USA 94105
Phone Number: (415) 442-1326
Fax Number: (415) 442-1010

EXHIBIT B
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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:24:37 ET

Serial Number: 76341160 Assignment Information

Registration Number: 3066260

Mark (words only): SNAPDRIVE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2006-03-07

Filing Date: 2001-11-20

Transformed into a National Application: No

Registration Date: 2006-03-07

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-01-27

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.

495 East Java Drive

Sunnyvale, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer operating system software; computer software for storing, securing, managing, monitoring and optimizing the accessibility, delivery, backup, restoration, migration and replication of computer data on filers and computer networks

Basis: 1(a)

First Use Date: 2001-12-00

First Use in Commerce Date: 2002-09-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-03-07 - Registered - Principal Register

2006-01-26 - Law Office Registration Review Completed

2006-01-20 - Assigned To LIE

2006-01-14 - Allowed for Registration - Principal Register (SOU accepted)

EXHIBIT B
Page 20 of 26

2005-07-18 - Statement of Use processing complete

2005-07-08 - Amendment to Use filed

2005-07-08 - TEAS Statement of Use Received

2005-05-31 - Extension 5 granted

2005-05-31 - Extension 5 filed

2005-05-31 - TEAS Extension Received

2004-12-07 - Extension 4 granted

2004-12-01 - Extension 4 filed

2004-12-01 - TEAS Extension Received

2004-06-04 - Extension 3 granted

2004-05-25 - Extension 3 filed

2004-05-28 - Case File In TICRS

2004-05-25 - TEAS Extension Received

2003-12-03 - Extension 2 granted

2003-11-24 - Extension 2 filed

2003-11-24 - TEAS Extension Received

2003-08-25 - PAPER RECEIVED

2003-06-16 - Extension 1 granted

2003-06-03 - Extension 1 filed

2003-06-03 - TEAS Extension Received

2003-05-07 - TEAS Change Of Correspondence Received

2002-12-03 - Notice of allowance - mailed

2002-09-10 - Published for opposition

2002-08-21 - Notice of publication

2002-03-11 - Approved for Pub - Principal Register (Initial exam)

2002-03-11 - Assigned To Examiner

2002-02-13 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

One Market, Spear Street Tower

San Francisco CA 94105

Phone Number: 415-442-0900

Fax Number: 415-442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:24:58 ET

Serial Number: 78361868 Assignment Information

Registration Number: 3096447

Mark

SNAPVALIDATOR

(words only): SNAPVALIDATOR

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-05-23

Filing Date: 2004-02-03

Transformed into a National Application: No

Registration Date: 2006-05-23

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-04-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.
495 East Java Drive
Sunnyvale, CA 94089
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

COMPUTER SOFTWARE FOR USE IN ELECTRONIC DATA STORAGE
SYSTEMS AND COMPUTER NETWORKS FOR MANAGING, SEARCHING
AND SECURING DATA

Basis: 1(a)

First Use Date: 2005-04-00

First Use in Commerce Date: 2005-04-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-05-23 - Registered - Principal Register

2006-04-12 - Law Office Registration Review Completed

2006-04-11 - Assigned To LIE

2006-03-28 - Allowed for Registration - Principal Register (SOU accepted)

2006-02-27 - Statement of use processing complete

2006-02-08 - Amendment to Use filed

2006-02-08 - TEAS Statement of Use Received

2006-02-01 - Extension 2 granted

2006-02-01 - Extension 2 filed

2006-02-01 - TEAS Extension Received

2005-06-30 - Extension 1 granted

2005-06-30 - Extension 1 filed

2005-06-30 - TEAS Extension Received

2005-02-01 - Notice of allowance - mailed

2004-11-09 - Published for opposition

2004-10-20 - Notice of publication

2004-09-15 - Law Office Publication Review Completed

2004-09-13 - Assigned To LIE

2004-08-28 - Approved for Pub - Principal Register (Initial exam)

2004-08-25 - Assigned To Examiner

2004-02-12 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

1 Market, Spear Street Tower

San Francisco, CA 94105

Phone Number: (415) 442-1326

Fax Number: (415) 442-1001

EXHIBIT B
Page 26 of 26

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 78/749,922
Filed November 8, 2005
For the mark SNAP RESTORE
Published in the OFFICIAL GAZETTE on February 13, 2007

In the matter of application Serial No. 78/894,811
Filed May 27, 2006
For the mark ACRONIS SNAP RESTORE
Published in the OFFICIAL GAZETTE on January 30, 2007

NETWORK APPLIANCE, INC., a Delaware
corporation,

Opposer,

v.

ACRONIS, INC., a corporation of the British
Virgin Islands,

Applicant.

Opposition No.:

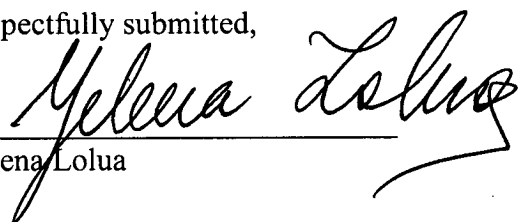
CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

BOX TTAB – FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

I hereby certify that the attached Combined Notice of Opposition and Exhibits A-B (*in triplicate*), and receipt verification postcard are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: BOX TTAB — FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on **May 30, 2007**.

Respectfully submitted,



Yelena Lolua

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 78/749,922
Filed November 8, 2005
For the mark SNAP RESTORE
Published in the OFFICIAL GAZETTE on February 13, 2007

In the matter of application Serial No. 78/894,811
Filed May 27, 2006
For the mark ACRONIS SNAP RESTORE
Published in the OFFICIAL GAZETTE on January 30, 2007

NETWORK APPLIANCE, INC., a Delaware
corporation,

Opposer,

v.

ACRONIS, INC., a corporation of the British
Virgin Islands,

Applicant.

Opposition No.:

BOX TTAB — FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

COMBINED NOTICE OF OPPOSITION

Network Appliance, Inc., a Delaware corporation, having its principal place of business at 495 East Java Drive, Sunnyvale, CA 94089 ("NetApp" or "Opposer"), believes that it will be damaged by the registration of the SNAP RESTORE mark shown in Serial No. 78/749,922 and

the ACRONIS SNAP RESTORE mark shown in Serial No. 78/894,811 and, hereby opposes same.

As grounds for the Combined Opposition, Opposer NetApp alleges as follows:

1. NetApp is a publicly traded company that is widely recognized as the leader in enterprise storage and the delivery of data and content on demand. NetApp has long developed, marketed and offered enterprise data management products and services, including, among other products and services, hardware and software for storing, securing and managing data.
2. NetApp owns and uses, in interstate and foreign commerce, marks based on, and including, the word SNAP for enterprise data management related products and services, particularly software for data storage and network management. NetApp has owned and used these marks in interstate and foreign commerce, since well prior to the filing dates of the applications at issue in this proceeding. In particular, NetApp used the SNAPRESTORE® mark in interstate commerce at least as early as April 30, 1999. Additionally, for example, NetApp has used other SNAP based marks in interstate commerce such as the SNAPMIRROR® mark since at least as early as April 1999, the SNAPMANAGER® manager since at least as early as February 7, 2000, the SNAPLOCK® mark since at least as early as June 16, 2003, and the SNAPVAULT® mark since at least as early as March 2002.
3. NetApp owns valid, subsisting, uncanceled and unrevoked federal trademark registrations for marks that are comprised of, or include, the word SNAP for its products. These registrations include the mark SNAPRESTORE®, Registration No. 2,485,892, for "computer software for recovery of data stored in electronic data file systems, and instruction and user manuals provided in connection therewith," in International Class 9, registered on September 4, 2001. A true and correct copy of this registration is attached as Exhibit A.

4. NetApp also owns valid, subsisting uncanceled and unrevoked federal registrations for the following marks:

(a) SNAPMIRROR®, Registration No. 2,488,676, for “computer software for replicating and updating of electronic data to separate data storage systems across computer networks, and instruction and user manuals provided in connection therewith,” in International Class 9, registered on September 11, 2001;

(b) SNAPMANAGER®, Registration No. 2,480,545, for “computer software for backing up and recovery of data stored in electronic data file systems and for the management of backing up and recovery of data stored in electronic data file systems, and instruction and user manuals sold as a unit therewith,” in International Class 9, registered on August 21, 2001;

(c) SNAPVAULT®, Registration No. 2,903,585, for “computer hardware and software for managing the protection, backup, replication, and restoration of data, and instruction and user manuals sold therewith,” in International Class 9, registered on November 16, 2004;

(d) SNAPMOVER®, Registration No. 2,855,337, for “computer hardware and software for storing, securing, managing, controlling, monitoring and optimizing the accessibility, delivery, backup, restoration, replication, and migration of computer data; software for managing and monitoring computer disc drives and other computer storage devices using a computer network,” in International Class 9, registered on June 15, 2004;

(e) SNAPLOCK®, Registration No. 2,962,614, for “computer software for storing, securing and managing data on magnetic disk storage and for optimizing the accessibility of the data, and the instruction and user manuals sold therewith,” in International Class 9, registered on June 14, 2005;

(f) SNAPDRIVE®, Serial No. 76/341,160, (Allowed), for “computer operating system software; computer software for storing, securing, managing, monitoring and optimizing the accessibility, delivery, backup, restoration, migration and replication of computer data on filers and computer networks,” in International Class 9, with use commencing in interstate commerce at least as early as September, 2002; and

(g) SNAPVALIDATOR®, Serial No. 78/361,868, (Allowed), for “computer software for use in electronic data storage systems and computer networks for managing, searching and securing data,” in International Class 9.

True and correct copies of NetApp referenced registrations, and applications and allowances from the TARR database are attached hereto as Exhibit B.

5. By way of the opposed applications, Acronis, Inc. (“Applicant” or “Acronis”), seeks to register the confusingly similar designations SNAP RESTORE, having disclaimed the word “restore”, Serial No. 78/749,922, in International Class 9 for “computer software, available in downloadable form, for servers, laptop computers, desktop computers, palmtop computers, mobile computers, personal digital assistants and personal computers, including networked machines controlled from a central location, for booting the operating system from an image on a crashed or failed computer, while the remainder of the restoration can continue in the background; computer software, available on CD-ROM, for servers, laptop computers, desktop computers, palmtop computers, mobile computers, personal digital assistants and personal computers, including networked machines controlled from a central location for booting the operating system from an image on a crashed or failed computer, while the remainder of the restoration can continue in the background;” and ACRONIS SNAP RESTORE, having disclaimed the word “restore,” Serial No. 78/894,811, in International Class 9 for “downloadable

computer software and software recorded on CD-ROM, for servers, laptop computers, desktop computers, palmtop computers, mobile computers, personal digital assistants and personal computers, namely, networked machines controlled from a central location, for booting the operating system from an image on a crashed or failed computer, while the remainder of the restoration can continue in the background.” The opposed application for SNAP RESTORE was filed on November 8, 2005, and the opposed application for ACRONIS SNAP RESTORE on May 27, 2006, well after NetApp obtained United States trademark registrations for its SNAPRESTORE® and other SNAP based marks, including but not limited to its SNAPMIRROR®, SNAPLOCK® and SNAPMANAGER® marks, and well after NetApp first commenced use of its SNAPRESTORE®, SNAPMIRROR®, SNAPDRIVE®, SNAPMANAGER®, SNAPLOCK®, SNAPVALIDATOR® and SNAPVAULT® marks.

6. Applicant’s SNAP RESTORE designation is identical to NetApp’s federally registered and in use SNAPRESTORE® mark in sight, sound and meaning, and its ACRONIS SNAP RESTORE designation is virtually identical to NetApp’s federally registered and in use SNAPRESTORE® mark in sight, sound and meaning. Furthermore, Applicant’s SNAP RESTORE and ACRONIS SNAP RESTORE designations are confusingly similar in sight, sound, meaning and overall commercial impression to NetApp’s federally registered and in use SNAPMIRROR®, SNAPRESTORE®, SNAPMANAGER®, SNAPVAULT®, SNAPMOVER® and SNAPLOCK® marks. These confusing similarities are likely to lead to confusion with NetApp and its products.

7. On information and belief, NetApp alleges that the goods for which Applicant seeks to register the opposed designations are competitive with, and/or directly related to, and/or complementary to, NetApp’s goods. Further, on information and belief, Applicant’s products for

which it claims the right to use the SNAP RESTORE and ACRONIS SNAP RESTORE designations, with the word "restore" disclaimed, include products which are likely to be offered through the same or overlapping marketing and trade channels, and to the same or overlapping customers, to whom NetApp markets, promotes and sells its enterprise data and network management and related products under its SNAP based marks. Indeed, Applicant itself states on its own web site that it is a "world leader in providing advanced, scalable storage management..." Further, Applicant claims on its web site that it sells to small, mid-sized and Fortune500 businesses.

8. Inasmuch as NetApps's SNAP marks and, specifically its SNAPRESTORE[®] mark are essentially identical in terms of sight, sound and/or meaning to the designations SNAP RESTORE and ACRONIS SNAP RESTORE and because the goods identified in the opposed applications, the apparent channels of trade and the prospective customer base for those goods at a minimum overlap with those of NetApp, Applicant's registration of the SNAP RESTORE and ACRONIS SNAP RESTORE designations, are likely to cause confusion, mistake and deception in the marketplace and damage NetApp. Therefore, Applicant is not entitled to registrations for either of its applications opposed here under the Lanham Act, 15 U.S.C. §1052(d).

WHEREFORE, NetApp prays that application Serial No. 78/749,922 for SNAP RESTORE and application Serial No. 78/894,811 for ACRONIS SNAP RESTORE be rejected, that no registrations be issued thereon to Applicant, and that this combined opposition be sustained in favor of NetApp.

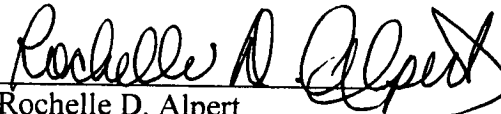
//

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The Assistant Commissioner is hereby authorized to charge the \$600.00, and any other required fees to institute this Opposition, to Deposit Account No. 13-4520.

Dated: May 30, 2007

Respectfully submitted,

By: 
Rochelle D. Alpert
Attorney for Opposer
Network Appliance, Inc.

Rochelle D. Alpert
Sharon R. Smith
Morgan, Lewis & Bockius LLP
Spear Street Tower, One Market
San Francisco, CA 94105
Telephone: (415) 442-1326
Facsimile: (415) 442-1001
Email: ralpert@morganlewis.com

EXHIBIT A

TO COMBINED NOTICE OF OPPOSITION

NETWORK APPLIANCE, INC. v. ACRONIS, INC.
Serial No. 78/749,922 and Serial No. 78/894,811
Submitted by: Network Appliance, Inc. (Opposer)

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:21:27 ET

Serial Number: 75745667 Assignment Information

Registration Number: 2485892

Mark (words only): SNAPRESTORE

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-04-16

Filing Date: 1999-07-08

Transformed into a National Application: No

Registration Date: 2001-09-04

Register: Principal

Law Office Assigned: LAW OFFICE 113

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at
TrademarkAssistanceCenter@uspto.gov**

Current Location: 830 -Post Registration

Date In Location: 2007-04-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. NETWORK APPLIANCE, INC.

Address:
NETWORK APPLIANCE, INC.

495 EAST JAVA DRIVE
SUNNYVALE, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for recovery of data stored in electronic data file systems, and instruction and user manuals provided in connection therewith

Basis: 1(a)

First Use Date: 1998-11-00

First Use in Commerce Date: 1999-04-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-05-08 - TEAS Change Of Correspondence Received

2007-04-16 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-02-27 - Section 8 (6-year) and Section 15 Filed

2007-02-27 - TEAS Section 8 & 15 Received

2007-02-05 - Case File In TICRS

2001-09-04 - Registered - Principal Register

2001-05-08 - Allowed for Registration - Principal Register (SOU accepted)

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75745667>

2001-05-07 - Assigned To Examiner

2001-05-02 - Statement of use processing complete

2001-04-20 - Amendment to Use filed

2000-10-30 - Extension 1 granted

2000-10-30 - Extension 1 filed

2000-05-02 - Notice of allowance - mailed

2000-02-08 - Published for opposition

2000-01-07 - Notice of publication

1999-12-02 - Approved for Pub - Principal Register (Initial exam)

1999-11-19 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

ROCHELLE D. ALPERT

Correspondent

Rochelle D. Alpert
Morgan, Lewis & Bockius, LLP
1 Market, Spear Street Tower
San Francisco CA 94105
Phone Number: (415) 442-1326
Fax Number: (415) 442-1001

EXHIBIT B

TO COMBINED NOTICE OF OPPOSITION

EXHIBIT B
Page 1 of 26

NETWORK APPLIANCE, INC. v. ACRONIS, INC.
Serial No. 78/749,922 and Serial No. 78/894,811
Submitted by: Network Appliance, Inc. (Opposer)

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:22:30 ET

Serial Number: 75748684 Assignment Information

Registration Number: 2488676

Mark (words only): SNAPMIRROR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-09-11

Filing Date: 1999-07-08

Transformed into a National Application: No

Registration Date: 2001-09-11

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-01-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.
495 East Java Drive
Sunnyvale, CA 94089
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for replicating and updating of electronic data to separate data storage systems across computer networks, and instruction and user manuals provided in connection therewith

Basis: 1(a)

First Use Date: 1999-03-31

First Use in Commerce Date: 1999-04-26

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-01-29 - Case File In TICRS

2001-09-11 - Registered - Principal Register

2001-05-09 - Allowed for Registration - Principal Register (SOU accepted)

2001-05-01 - Statement of use processing complete

2001-04-30 - Extension 2 granted

2001-03-29 - Amendment to Use filed

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75748684>

2001-03-29 - Extension 2 filed
2000-12-18 - Extension 1 granted
2000-10-04 - Extension 1 filed
2000-04-04 - Notice of allowance - mailed
2000-01-11 - Published for opposition
1999-12-10 - Notice of publication
1999-11-04 - Approved for Pub - Principal Register (Initial exam)
1999-10-29 - Assigned To Examiner
1999-10-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Adam C. Striegel

Correspondent

ADAM C. STRIEGEL
BROBECK PHLEGER & HARRISON LLP
SPEAR STREET TOWER
ONE MARKET
SAN FRANCISCO, CALIFORNIA 94105

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:23:10 ET

Serial Number: 75686959 Assignment Information

Registration Number: 2480545

Mark (words only): SNAPMANAGER

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-08-21

Filing Date: 1999-04-20

Transformed into a National Application: No

Registration Date: 2001-08-21

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-02-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.
2770 San Thomas Expressway
Santa Clara, CA 95051
United States

Legal Entity Type: Corporation
State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for backing up and recovery of data stored in electronic data file systems and for the management of backing up and recovery of data stored in electronic data file systems, and instruction and user manuals sold as a unit therewith

Basis: 1(a)

First Use Date: 1999-12-31

First Use in Commerce Date: 2000-02-07

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-02-07 - Case File In TICRS

2001-08-21 - Registered - Principal Register

2001-04-18 - Allowed for Registration - Principal Register (SOU accepted)

2001-04-09 - Statement of use processing complete

2001-03-06 - Amendment to Use filed

2000-09-07 - Extension 1 granted

2000-09-07 - Extension 1 filed

2000-03-07 - Notice of allowance - mailed

1999-12-14 - Published for opposition

1999-11-12 - Notice of publication

1999-09-21 - Approved for Pub - Principal Register (Initial exam)

1999-09-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Adam C. Striegel

Correspondent

ADAM C STRIEGEL

BROBECK PHLEGER & HARRISON LLP

SPEAR STREET TOWER

1 MARKET PLZ

SAN FRANCISCO CA 94105-1420

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:23:38 ET

Serial Number: 76193463 Assignment Information

Registration Number: 2903585

Mark (words only): SNAPVAULT

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-11-16

Filing Date: 2001-01-09

Transformed into a National Application: No

Registration Date: 2004-11-16

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2004-10-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. NETWORK APPLIANCE, INC.

Address:

NETWORK APPLIANCE, INC.
495 EAST JAVA DRIVE
SUNNYVALE, CA 94089
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer hardware and software for managing the protection, backup, replication, and restoration of data, and instruction and user manuals sold therewith

Basis: 1(a)

First Use Date: 2002-03-00

First Use in Commerce Date: 2002-03-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-11-16 - Registered - Principal Register

2004-09-20 - Law Office Registration Review Completed

2004-09-20 - Assigned To LIE

2004-09-16 - Allowed for Registration - Principal Register (SOU accepted)

2004-09-16 - Assigned To Examiner

2004-09-14 - Statement of use processing complete

EXHIBIT B
Page 9 of 26

2004-06-16 - Amendment to Use filed

2004-06-16 - TEAS Statement of Use Received

2004-06-02 - Extension 5 granted

2004-05-20 - Extension 5 filed

2004-05-28 - Case File In TICRS

2004-05-20 - TEAS Extension Received

2003-11-17 - Extension 4 granted

2003-10-31 - Extension 4 filed

2003-06-15 - Extension 3 granted

2003-05-15 - Extension 3 filed

2003-10-31 - TEAS Extension Received

2003-08-25 - PAPER RECEIVED

2003-05-15 - TEAS Extension Received

2003-05-07 - TEAS Change Of Correspondence Received

2002-12-04 - Extension 2 granted

2002-10-21 - Extension 2 filed

2002-10-25 - PAPER RECEIVED

2002-03-12 - Extension 1 granted

2002-03-01 - Extension 1 filed

2001-11-20 - Notice of allowance - mailed

2001-08-28 - Published for Opposition

2001-08-08 - Notice of publication

2001-04-26 - Approved for Pub - Principal Register (Initial exam)

2001-04-24 - Assigned To Examiner

2001-04-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

One Market, Spear Street Tower

San Francisco CA 94105

Phone Number: 415-442-0900

Fax Number: 415-442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:23:59 ET

Serial Number: 78235758 Assignment Information

Registration Number: 2855337

Mark (words only): SNAPMOVER

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-06-15

Filing Date: 2003-04-09

Transformed into a National Application: No

Registration Date: 2004-06-15

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-07-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.

495 East Java Drive

Sunnyvale, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer hardware and software for storing, securing, managing, controlling, monitoring and optimizing the accessibility, delivery, backup, restoration, replication, and migration of computer data; software for managing and monitoring computer disc drives and other computer storage devices using a computer network

Basis: 1(a)

First Use Date: 2002-12-00

First Use in Commerce Date: 2004-01-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-06-15 - Registered - Principal Register

2004-04-05 - Allowed for Registration - Principal Register (SOU accepted)

2004-04-02 - Assigned To Examiner

2004-04-01 - Statement of use processing complete

2004-03-25 - Amendment to Use filed

2004-03-25 - TEAS Statement of Use Received

2004-02-24 - Notice of allowance - mailed

2003-12-02 - Published for opposition

2003-11-12 - Notice of publication

2003-09-23 - Approved for Pub - Principal Register (Initial exam)

2003-09-22 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

One Market, Spear Street Tower

San Francisco CA USA 94105

Phone Number: (415) 442-1326

Fax Number: (415) 442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:24:17 ET

Serial Number: 78224801 Assignment Information

Registration Number: 2962614

Mark (words only): SNAPLOCK

Standard Character claim: No

Current Status: Registered.

Date of Status: 2005-06-14

Filing Date: 2003-03-12

Transformed into a National Application: No

Registration Date: 2005-06-14

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-05-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.

495 East Java Drive

Sunnyvale, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software for storing, securing and managing data on magnetic disk storage and for optimizing the accessibility of the data and the instruction and user manuals sold therewith

Basis: 1(a)

First Use Date: 2003-04-15

First Use in Commerce Date: 2003-06-16

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-06-14 - Registered - Principal Register

2005-04-11 - Law Office Registration Review Completed

2005-04-08 - Assigned To LIE

2005-04-04 - Allowed for Registration - Principal Register (SOU accepted)

2005-04-01 - Amendment From Applicant Entered

2005-03-15 - Communication received from applicant

2005-03-15 - PAPER RECEIVED

2004-09-16 - Non-final action e-mailed

2004-09-16 - SU - Non-Final Action - Written

2004-09-01 - Assigned To Examiner

2004-08-31 - Statement of use processing complete

2004-08-20 - Amendment to Use filed

2004-08-20 - TEAS Statement of Use Received

2004-07-07 - Extension 1 granted

2004-06-21 - Extension 1 filed

2004-06-21 - TEAS Extension Received

2004-01-13 - Notice of allowance - mailed

2003-10-21 - Published for opposition

2003-10-01 - Notice of publication

2003-08-26 - Approved for Pub - Principal Register (Initial exam)

2003-08-26 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=78224801>

EXHIBIT B
Page 17 of 26

5/30/2007

Rochelle D. Alpert
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco CA USA 94105
Phone Number: (415) 442-1326
Fax Number: (415) 442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:24:37 ET

Serial Number: 76341160 Assignment Information

Registration Number: 3066260

Mark (words only): SNAPDRIVE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2006-03-07

Filing Date: 2001-11-20

Transformed into a National Application: No

Registration Date: 2006-03-07

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-01-27

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.
495 East Java Drive
Sunnyvale, CA 94089
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer operating system software; computer software for storing, securing, managing, monitoring and optimizing the accessibility, delivery, backup, restoration, migration and replication of computer data on filers and computer networks

Basis: 1(a)

First Use Date: 2001-12-00

First Use in Commerce Date: 2002-09-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-03-07 - Registered - Principal Register

2006-01-26 - Law Office Registration Review Completed

2006-01-20 - Assigned To LIE

2006-01-14 - Allowed for Registration - Principal Register (SOU accepted)

2005-07-18 - Statement of use processing complete

2005-07-08 - Amendment to Use filed

2005-07-08 - TEAS Statement of Use Received

2005-05-31 - Extension 5 granted

2005-05-31 - Extension 5 filed

2005-05-31 - TEAS Extension Received

2004-12-07 - Extension 4 granted

2004-12-01 - Extension 4 filed

2004-12-01 - TEAS Extension Received

2004-06-04 - Extension 3 granted

2004-05-25 - Extension 3 filed

2004-05-28 - Case File In TICRS

2004-05-25 - TEAS Extension Received

2003-12-03 - Extension 2 granted

2003-11-24 - Extension 2 filed

2003-11-24 - TEAS Extension Received

2003-08-25 - PAPER RECEIVED

2003-06-16 - Extension 1 granted

2003-06-03 - Extension 1 filed

2003-06-03 - TEAS Extension Received

2003-05-07 - TEAS Change Of Correspondence Received

2002-12-03 - Notice of allowance - mailed

2002-09-10 - Published for opposition

2002-08-21 - Notice of publication

2002-03-11 - Approved for Pub - Principal Register (Initial exam)

2002-03-11 - Assigned To Examiner

2002-02-13 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

One Market, Spear Street Tower

San Francisco CA 94105

Phone Number: 415-442-0900

Fax Number: 415-442-1010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-30 15:24:58 ET

Serial Number: 78361868 Assignment Information

Registration Number: 3096447

Mark

SNAPVALIDATOR

(words only): SNAPVALIDATOR

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-05-23

Filing Date: 2004-02-03

Transformed into a National Application: No

Registration Date: 2006-05-23

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-04-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Network Appliance, Inc.

Address:

Network Appliance, Inc.

495 East Java Drive

Sunnyvale, CA 94089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

COMPUTER SOFTWARE FOR USE IN ELECTRONIC DATA STORAGE
SYSTEMS AND COMPUTER NETWORKS FOR MANAGING, SEARCHING
AND SECURING DATA

Basis: 1(a)

First Use Date: 2005-04-00

First Use in Commerce Date: 2005-04-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2480545

2485892

2488676

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-05-23 - Registered - Principal Register

2006-04-12 - Law Office Registration Review Completed

2006-04-11 - Assigned To LIE

2006-03-28 - Allowed for Registration - Principal Register (SOU accepted)

2006-02-27 - Statement of use processing complete

2006-02-08 - Amendment to Use filed

2006-02-08 - TEAS Statement of Use Received

2006-02-01 - Extension 2 granted

2006-02-01 - Extension 2 filed

2006-02-01 - TEAS Extension Received

2005-06-30 - Extension 1 granted

2005-06-30 - Extension 1 filed

2005-06-30 - TEAS Extension Received

2005-02-01 - Notice of allowance - mailed

2004-11-09 - Published for opposition

2004-10-20 - Notice of publication

2004-09-15 - Law Office Publication Review Completed

2004-09-13 - Assigned To LIE

2004-08-28 - Approved for Pub - Principal Register (Initial exam)

2004-08-25 - Assigned To Examiner

2004-02-12 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Rochelle D. Alpert

Correspondent

Rochelle D. Alpert

Morgan, Lewis & Bockius LLP

1 Market, Spear Street Tower

San Francisco, CA 94105

Phone Number: (415) 442-1326

Fax Number: (415) 442-1001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 78/749,922
Filed November 8, 2005
For the mark SNAP RESTORE
Published in the OFFICIAL GAZETTE on February 13, 2007

In the matter of application Serial No. 78/894,811
Filed May 27, 2006
For the mark ACRONIS SNAP RESTORE
Published in the OFFICIAL GAZETTE on January 30, 2007

NETWORK APPLIANCE, INC., a Delaware
corporation,

Opposer,

v.

ACRONIS, INC., a corporation of the British
Virgin Islands,

Applicant.

Opposition No.:

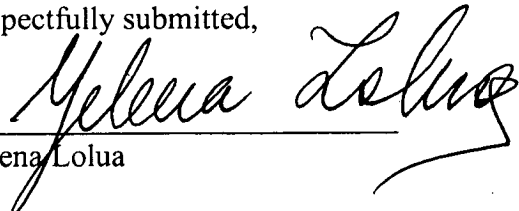
CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

BOX TTAB – FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

I hereby certify that the attached Combined Notice of Opposition and Exhibits A-B (*in triplicate*), and receipt verification postcard are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: BOX TTAB — FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on **May 30, 2007**.

Respectfully submitted,



Yelena Lolua